

**BEFORE THE
NATURAL RESOURCES COMMISSION
OF THE
STATE OF INDIANA**

IN THE MATTER OF:

GAME BREEDER LICENSE)	Administrative Cause
)	Number 09-059D
)	(LSA Document #09-486F)

**REPORT OF PUBLIC HEARING AND COMMENTS,
AND RECOMMENDATION REGARDING FINAL ADOPTION**

1. RULE PROCESSING

The Department, through its Division of Fish and Wildlife, proposed this rule package which proposes to amend 312 IAC 9-10-4. The rule governs game breeder licenses and the proposed amendments will clarify requirements for the possession, housing and sale of wild animals possessed under the license. The amendments also address Department inspections and the correction of violations. In order to maintain consistency with Indiana Code, the proposed amendment will also remove southern flying squirrels from the list of wild animals that can be possessed under a game breeder license.

The Natural Resources Commission (*NRC*) gave preliminary adoption to the rule package on May 19, 2009.

A “Notice of Intent” to adopt the proposed rule amendment was posted to the INDIANA REGISTER database website as 20090708-IR-312090486NIA on July 8, 2009. The notice identified Linnea Petercheff, Department of Natural Resources, Division of Fish and Wildlife, as the “small business regulatory coordinator” for purposes of Indiana Code § 4-22-2-28.1.

A fiscal analysis was prepared in association with the proposed rule package. The Department estimates that the proposed amendments will impose costs and requirements

of approximately \$500.00 per year for fencing repairs, padlocks and administrative costs upon small businesses. The Department determined that there would be no fiscal impacts to government as a result of these amendments.

The fiscal analyses, a copy of the proposed rule language and a copy of the posted Notice of Intent were submitted to the Office of Management and Budget on July 9, 2009. In a letter dated November 9, 2009, Christopher A. Ruhl, Director, Office of Management and Budget, recommended that the proposed rule amendments be approved.

In accordance with IC 4-22-2.1-5(c)(2), a copy of the proposed rule and the statement concerning rules affecting small business were submitted to the Indiana Economic Development Corporation (*IEDC*) on November 23, 2009. IEDC issued written comments on December 18, 2009 indicating no objection to the fiscal impacts associated with the proposed rule amendments. The hearing officer responded to the comments of the IEDC on December 29, 2009. IEDC's comments were made available for public inspection and copying in the office and on the NRC website and copies were available for inspection during the public hearing conducted on January 7, 2010.

The NRC Division of Hearings submitted the rule proposal to the Legislative Services Agency (*LSA*) along with the "Statement Concerning Rules Affecting Small Business" on November 20, 2009. The Notice of Public Hearing was submitted to LSA on November 23, 2009. The Notice of Public Hearing, along with the Economic Impact Statement and the text of the proposed rule was posted to the INDIANA REGISTER database website on December 9, 2009 as 20091209-IR-312090486PHA. Following receipt of an "Authorization to Proceed" from LSA on November 23, 2009, the NRC Division of Hearings also caused a Notice of Public Hearing to be published by the Indianapolis Newspapers, a newspaper of general circulation in Marion County Indiana, on December 4, 2009 with respect to the public hearing conducted on January 7, 2010. In addition, the notice of the public hearing and a summary of the proposed rule changes were published on the Commission's web-based electronic calendar.

2. REPORT OF PUBLIC HEARING AND COMMENTS

a) Public Hearing Comments

The public hearing was conducted as scheduled on January 7, 2010 at 6:00 p.m. at Pike Township Public Library, 6525 Zionsville Road, Indianapolis, Indiana. Hearing Officer, Sandra Jensen, was present along with Linnea Petercheff of the Department's Division of Fish and Wildlife. The following public comments were received:

Michael L. Thomasson, Indianapolis, Indiana

Mr. Thomasson reported being the attorney for the Indiana Deer and Elk Farmers Association (*IDEFA*). He stated that IDEFA has read the regulation thoroughly and are in total agreement with the wording. He noted the organization believed that the rule is a very fair and thoughtful product. IDEFA is totally supportive of the regulation. Mr. Thomasson noted by a show of hands that nearly everyone in attendance at the public hearing is a member of IDEFA observing that as an organization they wanted to show support for the Department's efforts. Mr. Thomasson noted that many of the people in attendance traveled a long distance in very bad weather to attend the meeting. He also expressed that the Department has done a "marvelous job" with this rule language and the "effort is very appreciated."

Frank Keaton, Brownsburg, Indiana

Mr. Keaton stated that he is the vice president of IDEFA and a deer farmer. He stated that he supports the language of the proposed rule and believes it will clear up confusion that has existed in the past and will allow the Department and the deer farmers to go forward in a positive way.

Junior Anderson, Nappanee, Indiana

Offered his support for the rule as proposed adding that it is very important to have language like what is proposed by the Department in order to avoid conflict in the future.

Donald J. Schmucker, Milford, Indiana

Offered his support for the rule as proposed. He observed that the rule language clarifies a lot of things that pertain to the white tail industry. It protects the industry but through the establishment of housing and animal welfare requirements it also protects the animal.

Marlin J. Miller, Milford, Indiana

Jesse M. Miller, Milford, Indiana

John E. Schwartz, Bremen, Indiana

Kevin Hershberger, Milford, Indiana

Allen Schwartz, Milford, Indiana

Lonnie D. Whetstone, Nappanee, Indiana

Jerry Schwartz, Bremen, Indiana

Howard Schmucker, Bremen, Indiana

Cliff Carly, Indianapolis, Indiana
Vernon Miller, Shipshewana, Indiana
Earnest F. Miller, Shipshewana, Indiana
Don Morris, Converse, Indiana
Brad Thurston, Owen, Indiana, board member of IDEFA
Jim Staats, Bloomington, Indiana
Wilbur Lehman, LaGrange, Indiana
Sam Schrock, LaGrange, Indiana
Mark Otto, LaGrange, Indiana
Kenneth Whetstone, Topeka, Indiana
Norman Stutzman, LaGrange, Indiana
Jay Dee Lehman, Shipshewana, Indiana
Orva Whetstone, Topeka, Indiana
Virgil Bontrager, Shipshewana, Indiana
Ezra Bontrager, Shipshewana, Indiana
Devon Yoder, Shipshewana, Indiana
Paul Yoder, Shipshewana, Indiana
Marcus Miller, Middlebury, Indiana
Lamar Miller, Amboy, Indiana
Marvin Whetstone, Topeka, Indiana
Lavern Stutzman, LaGrange, Indiana

Each of the above listed persons offered their support for the rule as proposed.

b) Comments Received Outside Public Hearing

The following written comments were received from members of the public outside of the public hearing held on January 7, 2010.

John Kevin Haendiges, Ramsey, IN (email: July 17, 2009)

I adamantly oppose game farming of any variety, particularly that consisting of legal game species. I oppose any effort to legitimize this activity; I do not support any proposal that facilitates perpetuation of this activity in our state.

Mike McCartin, Allen County, IN (email: August 18, 2009)

Game breeding should be immediately outlawed - if we need to have deer reduction hunts to "reduce the herd" why in God's name allow breeders to ADD to the over population.

Rick Miller, IDEFA, Columbus, IN (email: January 7, 2010)

I think it is a good thing IDNR is finally working with the cervide ranchers and farmers on a lic that is more so to fit them versus a permit for wild cervide. In the purpose of raising these farm raised mammals IDEFA needed a lot clearer version of the rules on the permit of farm raised cervide. I hope your committee approves these changes for the cervide FARMERS in the state of INDIANA to help understand the laws and preserve the right to raise these mammals with no argument with the difference between wild and farm raised.

Nathan Morrett, Indiana Deer Farmers, St. Joseph County (email: January 11, 2010)
I along with Eddie Ray Borkholder, Mark Borkholder, Verle Miller and David Borkholder where unavailable to attend the meeting but we all agree and approve the new game breeders permit and would like to see it go thru.

William C. Herring, Martinsville, IN

I had planned to comment in person at the public hearing regarding proposed Game Breeder License rule changes (LSA# 09-059D or 09-486) held at 6:00 PM January 7, 2010 at Pike Twp. Library, 6525 Zionsville Rd., Indianapolis, IN. The winter snowstorm caused a change in plans. Here are my comments submitted before the extended deadline of January 15, 2010.

A major problem with the proposed rule regarding white-tailed deer is the gross inadequacy in security of perimeter fencing.

Specifically, the current and proposed 8-feet tall fence is not adequate to prevent all deer from jumping it.

This could be improved by calling for a 10-feet tall fence, or the addition of a Y or T-shaped extension on top of 8 feet fences as used in modern industrial, commercial, and prison security fences.

However, a single fence, regardless of type or height is not adequate. The perimeter fencing must be a separated, double fence to prevent deer from exchanging body fluids or contacting fencing or adjacent ground where deer have rubbed, licked, urinated, or defecated.

Additionally, the rule should contain a provision that all tall trees must be removed from both sides of the perimeter fence. The purpose is to prevent a tree or large limb from breaching the fence when it falls because of a windstorm or other reasons.

Additionally, the proposed rule should prohibit perimeter fences from crossing defined stream channels (as opposed to overland runoff) or require an engineering certification that the fence is designed and built to remain intact even during flash flooding events that can otherwise breach fences.

Behind the need to greatly improve perimeter fencing security is the IDNR obligation to require design, construction, and maintenance so that there is virtually no chance that deer inside the facility can escape, no wild deer can enter, and that there is virtually no chance that diseases such as bovine TB and CWD can be spread to the wild deer population through either direct contact with confined animals or their saliva, urine, or feces.

If we continue to be lax in security we will likely see even more severe outbreaks of disease. It looks like Indiana may have “dodged the bullet” last summer with the bovine

TB incident that focused on a captive deer operation. However, with just one or two more outbreaks there is the very real possibility that the result would be the destruction of tens of thousands of deer (wild and captive) and domestic cattle. In the short term literally millions of dollars could be spent testing and depopulating deer and cattle. In the longer term all Hoosier farmers (and taxpayers) stand to lose millions of dollars because of the resulting quarantine, testing, depopulation, falling beef prices, and the whole economic ripple effect, including that related to deer hunting.

I urge IDNR to do the right thing. Greatly tighten security of perimeter fencing as noted above as long as people are allowed to possess deer under the Game Breeder License (GBL). Ultimately, you also need to completely eliminate deer from the list of animals that may be possessed under the GBL. This will prevent many severe, perhaps catastrophic, disease problems in the future. Let Indiana take the lead in the Midwest. Let us learn from the mistakes of other states before it is too late.

Several years ago IDNR granted GBL holders the PRIVILEGE of possessing deer under that license. I objected to it at the time. It seems that my worst fears were well founded. It is high time for the IDNR to take back that privilege. If the State can grant a privilege, it can take it back.

John R. Murrell, Indiana Deer And Elk Farmers Association, Dunkirk, IN (Email: January 12, 2010)

I, along with a majority of the members of the Indiana Deer and Elk Farmers Assoc. are in full support of the proposed changes to the game breeders permit. We feel that these changes are positive as they clarify the rules governing the farming of whitetail deer. Additionally, we feel that the proposed language changes should foster a beneficial working relationship between DNR and the cervid farming community.

Lori Butler, Lizton, IN (FAX: January 8, 2010)
I am in favor of proposed rule LSA Document #09-486.

Tammy Keeton, Arcadia, IN (FAX: January 7, 2010)
I support the new rules for the game breeders.

Calvin Grimes, Bainbridge, IN (FAX: January 8, 2010)
I support the new game breeders rule.

Jolene Borkholder, Bremen, IN
I am in favor of the changes in the deer breeders Lic. #.

O. Lamar Borkholder, Bremen, IN
I approve the changes in the deer breeders lic.

Darrin Borkholder, Bremen, IN (Regular Mail: January 14, 2010)
My name is Darrin Borkholder and I approve of the changes made to the Deer Breeders License.

Marcus Borkholder, Bremen, IN (Regular Mail: January 14, 2010)

I approve of the changes in the deer breeders license. Thanks a lot. This will help out greatly.

c) Response by the Department of Natural Resources

The Department of Natural Resources offered the following response to the public comments:

DNR Response

White-tailed deer and other mammals possessed under a game breeder cannot be released into the wild (312 IAC 9-10-4p). Only bobwhite quail and ring-necked pheasants can be released into the wild.

The perimeter fence height of at least eight (8) feet from the ground to the top of the fence at all parts of the structure is the current requirement for fence height under the game breeder license and is consistent with Indiana Board of Animal Health regulations for white-tailed deer in 345 IAC 2-7-3. This rule in 312 IAC 9-10-4 also states that the fence must make the escape of animals possessed inside the fence unlikely and prevent the entrance of a free-roaming deer. The majority of the escapes that have been reported are through gates left open and downed fences (as a result of trees or wind damage). Research has shown that white-tailed deer will rarely attempt to jump a fence 2.7 meters in height, or about 8.8 feet, if in low stress situations. However, if the tolerance to deer breaching a fence is low, some researchers recommend a 3 meter (10 foot) high fence. There would be a cost for license holders to add an additional 2 feet of wire at the top of the fence, add a second perimeter fence to prevent nose-to-nose contact, or add an electrical wire fence inside the perimeter fence. Adding a double fence to prevent nose-to-nose contact may prohibit disease transmission to deer and other animals outside the perimeter fence, but some species of animals (raccoons, opossums) could still climb over the fence and possibly transfer a disease. Removing trees along a fence line also does not guarantee that a fence will not be knocked down because windstorms and floods can also do the same damage.

New rule language in subsection (k) of this rule adds provisions to make it clear that if topographic, natural (such as a stream going under the fence), or other conditions exist that would enable an animal to pass over, through, or under the fence, the license holder must supplement the fence as necessary to prevent egress. Additional provisions in this rule include requiring a license holder to maintain the perimeter fence in good condition at all times, keep a log of perimeter fence inspections, and secure and install padlocks on all remote perimeter gates.

3. RECOMMENDATION

The proposed amendments to 312 IAC 9-10-4 are fully supported by the Indiana Deer and Elk Farmers Association (“*IDEFA*”) and its membership. Comments reflected that the proposed rule will “clarify the rules governing the farming of whitetail deer” and will “foster a beneficial working relationship between DNR and the cervid farming community.” *Comment of John R. Murrell*. Frank Keaton, Vice President of IDEFA, observed that the Department’s proposed rule will clear up confusion and will allow the Department and the deer farmers to go forward in a positive way.

However, there were three comments in opposition to the proposed rule. Two of these comments expressed the opinion that game breeding and game farming should be outlawed. Under Indiana Code § 14-22-20.5 a “cervidae livestock operation” is established to operate under a game breeder license issued under 312 IAC 9-10-4. Therefore, the Department is without the authority to outlaw these game farms.

The third comment in opposition to the rule proposed by the Department was submitted by Bill Herring. This comment focuses on what Mr. Herring characterizes as a “gross inadequacy in security of perimeter fencing” set forth in the amended language at 312 IAC 9-10-4(k). Mr. Herring proceeds to suggest that the required fence height should be ten foot or eight foot with a “Y” or “T” fence top extension to prevent deer from either entering or exiting the enclosure. Also included within Mr. Herring’s comments is his opinion that a double fence is necessary to prevent the exchange of bodily fluids and that trees should be removed from the area surrounding the fence in order to prevent downed trees from allowing breaches in the fences. All of these suggestions were brought forth by Mr. Herring as a means of more thoroughly eliminating the ability for diseases to spread from these enclosures to the wild deer populations. These same concerns were raised by Mr. Herring and others, who commented on the proposed rule when it was granted preliminary adoption in May, 2009.

The Department’s response acknowledges that the “majority of the escapes that have been reported are through gates left open and downed fences (as a result of trees or wind damage). Research has shown that white-tailed deer will rarely attempt to jump a fence

2.7 meters in height, or about 8.8 feet, if in low stress situations. However, if the tolerance to deer breaching a fence is low, some researchers recommend a 3 meter (10 foot) high fence.” These acknowledgements by the Department offer credence to some of Mr. Herring’s concerns but the Department notes that the fencing requirements set forth in the proposed rule are consistent with the requirements of the Indiana Board of Animal Health that also apply to these types of facilities. The Department notes that while a double fence, as suggested by Mr. Herring, would prevent nose-to-nose contact between animals, disease could be transmitted by small animals that will enter and exit the enclosure whether single or double fencing required. Furthermore, while falling trees do cause fence damage there are other natural occurrences that may result in fence failures.

The hearing officer would defer to the Commission’s determination regarding any revision to the proposed rule relating to the enclosure requirements and specifications. It is, however, recommended that the proposed rule, in some form, be granted final adoption in order to provide for the clarity and consistency for Indiana’s deer farmers.

The rule language as published is attached as Exhibit A.

Dated: February 10, 2010

Sandra L. Jensen
Hearing Officer

“Exhibit A”

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule LSA Document #09-486

DIGEST

Amends 312 IAC 9-10-4 governing game breeder licenses to clarify requirements for the housing and sale of wild animals possessed under the license, including white-tailed deer. Effective 30 days after filing with the Publisher.

312 IAC 9-10-4

SECTION 1. 312 IAC 9-10-4 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-10-4 Game breeder licenses

Authority: IC 14-10-2-4; IC 14-22-2-6; IC 14-22-20

Affected: IC 4-21.5; IC 14-22-20.5-2

Sec. 4. (a) ~~An application~~ **A person shall apply** for a license as a game breeder ~~of one (1) or more of the following species of wild animals (common names are included for public convenience, but the scientific names control) shall be made~~ on a departmental form.

(b) A license holder under this section may possess one (1) or more of the following:

- (1) Ring-necked pheasant (*Phasianus colchicus*).
- (2) Bobwhite quail (*Colinus virginianus*).
- (3) White-tailed deer (*Odocoileus virginianus*).
- (4) Eastern cottontail rabbit (*Sylvilagus floridanus*).
- (5) Gray squirrel (*Sciurus carolinensis*).
- (6) Fox squirrel (*Sciurus niger*).
- ~~(7) Southern flying squirrel (*Glaucomys volans*).~~
- ~~(8)~~ (7) Beaver (*Castor canadensis*).
- ~~(9)~~ (8) Coyote (*Canis latrans*).
- ~~(10)~~ (9) Gray fox (*Urocyon cinereoargenteus*).
- ~~(11)~~ (10) Red fox (*Vulpes vulpes*).
- ~~(12)~~ (11) Mink (*Mustela vison*).
- ~~(13)~~ (12) Muskrat (*Ondatra zibethicus*).
- ~~(14)~~ (13) Opossum (*Didelphis marsupialis*).
- ~~(15)~~ (14) Raccoon (*Procyon lotor*).
- ~~(16)~~ (15) Striped skunk (*Mephitis mephitis*).

- ~~(17)~~ **(16)** Long-tailed weasel (*Mustela frenata*).
~~(18)~~ **(17)** Least weasel (*Mustela nivalis* or *Mustela rixosa*).

(c) Notwithstanding subsection (b), a license holder under this section may lawfully acquire and possess a white-tailed deer that is:

- (1) privately-owned;**
- (2) legally obtained;**
- (3) born in captivity; and**
- (4) possessed by a cervidae livestock operation in accordance with IC 14-22-20.5-2.**

(d) A license holder under this section may lawfully acquire and possess the following:

- (1) Furbearing mammals and eastern cottontail rabbits that must have been one (1) of the following:**
 - (A) Lawfully taken in season.**
 - (B) Born in captivity.**
 - (2) Fox squirrels and gray squirrels that must have been born in captivity.**
 - (3) Ring-necked pheasants and bobwhite quail that must have been hatched in captivity.**

(e) A license holder under this section may possess the following:

- (1) White-tailed deer and their products for:**
 - (A) breeding;**
 - (B) propagating;**
 - (C) purchasing;**
 - (D) marketing; and**
 - (E) selling;****under IC 14-22-20.5.**
- (2) Furbearing mammals, squirrels, and eastern cottontail rabbits for breeding purposes under IC 14-22-20.**
- (3) Ring-necked pheasants and bobwhite quail for:**
 - (A) breeding purposes;**
 - (B) food; or**
 - (C) release.**

~~(b) An application~~ **(f) A person must apply** for a license under this section ~~must be made~~ within five (5) days after the:

- (1) acquisition of an animal within Indiana; or**
- (2) importation of an animal into Indiana.**

Each ~~each~~ enclosure ~~will~~ **for these animals must** be inspected by a conservation officer before a license may be issued.

~~(e)~~ **(g)** A license holder **under this section** may add a species to a game breeder license other than those identified in the application upon:

- (1) an inspection by a conservation officer; ~~and~~ or**
- (2) approval by the division of fish and wildlife.**

A conservation officer must be notified within five (5) days of acquisition of the new species.

~~(d) Each animal possessed under this section must be lawfully acquired. A receipted invoice, bill of lading, or other satisfactory evidence of lawful acquisition shall be presented for inspection upon the request of a conservation officer. Game or furbearing mammals or game birds, other than wild turkeys, lawfully taken in season may be retained alive after the close of the season. Any person wishing to import:~~ **(h) A license holder under this section who imports:**

- (1) any live animal under this license; or
- (2) the eggs of birds covered under this license;

must secure a certificate of veterinary inspection from an accredited veterinarian in the state of origin before the animal is shipped into Indiana. Documentation in the form of a copy of a valid game breeder license or valid dated receipt that establishes lawful acquisition or ownership must accompany any transportation of wild animals.

(i) A license holder under this section must present at least one (1) of the following for inspection upon the request of a conservation officer for each animal possessed:

- (1) A receipt.**
- (2) An invoice.**
- (3) Other satisfactory evidence of lawful acquisition, including documentation of natural birth.**

~~(e)~~ **(j) For ring-necked pheasants, bobwhite quail, furbearing mammals, eastern cottontail rabbits, fox squirrels, and gray squirrels, the following requirements apply:**

- (1) A wild animal must be confined in a cage or other enclosure that:**
 - (A) makes escape of the animal unlikely; and**
 - (B) prevents the entrance of a free-roaming animal of the same species.**
- (2) The cage or enclosure shall be large enough to: ~~provide~~**
 - (A) allow the wild animal with ample space for exercise and to avoid overcrowding. to turn about freely; and**
 - (B) make normal postural adjustments.**
- (3) All chainlink or welded wire edges shall be:**
 - (A) smoothly secured to prevent injury to the animals; and be**
 - (B) kept properly repaired. ~~The enclosure for white-tailed deer must have a perimeter fence consisting of at least a single eight (8) foot fence.~~**
- (4) Night quarters, holding pens, and nesting boxes may not be used as primary housing.**
- (5) The following shall be provided as required for the comfort of the particular species of animal:**
 - ~~(1)~~ **(A) Fresh water.**
 - ~~(2)~~ **(B) Rainproof dens.**
 - ~~(3)~~ **(C) Nest boxes.**
 - ~~(4)~~ **(D) Windbreaks.**
 - ~~(5)~~ **(E) Shelters.**
 - ~~(6)~~ **(F) Shade.**

~~(7)~~ (G) Bedding.

(6) Each animal shall be handled, housed, and transported in a sanitary and humane manner.

(7) An enclosure must be provided with sufficient drainage to prevent standing water from accumulating.

(8) The cages or other enclosures must be made available upon request for inspection by a conservation officer.

(k) For white-tailed deer, the following enclosure requirements apply:

(1) The enclosure must have a perimeter fence with a height of at least eight (8) feet from the ground to the top of the fence at all parts of the structure to:

(A) make the escape of an animal unlikely; and

(B) prevent the entrance of a free-roaming animal of the same species.

(2) Fence bottoms shall be installed at or near ground level but not more than six (6) inches above ground level.

(3) If topographic, natural, or other conditions exist that would enable an animal to pass through, over, or under the fence, the permit holder must supplement the fence as necessary to prevent egress.

(4) Perimeter fencing materials shall be of a fencing strength, weave, and construction that prevents the escape of an animal into the wild and may include, but are not limited to, high tensile game fence that is at least fourteen and one-half (14 1/2) gauge, chainlink fence of at least nine (9) gauge, welded wire fence of at least twelve and one-half (12 1/2) gauge, wood fence, or farm buildings.

(5) All chainlink or welded wire fence edges shall be:

(A) smoothly secured to prevent injury to the animals; and

(B) kept properly repaired.

(6) The license holder under this section or the license holder's designees must maintain the perimeter fencing in good condition at all times.

(7) The license holder under this section or the license holder's designees must maintain a log of perimeter fence inspections that records the following:

(A) The inspection date.

(B) The inspection time.

(C) The individual performing the inspection.

(D) Any noted deficiencies or repairs made.

(8) A license holder under this section must report the escape of any white-tailed deer possessed under this section to a conservation officer within twenty-four (24) hours after knowledge of the escape or knowledge of potential escape. Knowledge of potential escape shall include, but not be limited to, significant damage to the perimeter fence that is likely to allow escape or the license holder is unable to account for all of the animals possessed under this license, or both.

(9) A license holder under this section shall secure and install padlocks on all remote perimeter gates.

(10) Upon a request by a conservation officer, any enclosure must be made available for inspection.

(l) To provide for the comfort and overall health of each white-tailed deer possessed under this section, the license holder shall provide the following:

(1) Fresh water must be provided as follows:

(A) Available at all times.

(B) May be provided by:

(i) public water utilities;

(ii) wells;

(iii) cisterns;

(iv) ponds; or

(v) streams.

(2) Feed must be provided as follows:

(A) Where adequate pasture or natural vegetation is available to meet the nutritional needs of each animal, supplemental feeding is not necessary.

(B) Where adequate pasture or natural vegetation is not available to meet the nutritional needs of each animal, supplemental feed or a complete feed ration must be made available to prevent:

(i) malnutrition;

(ii) poor body condition;

(iii) debility;

(iv) stress;

(v) illness; or

(vi) disease.

(3) Windbreaks, shelters, and shade must be provided as follows:

(A) Protection of each animal from the extreme elements of heat, cold, or wind must be provided at all times and in all enclosures where animals are housed.

(B) Protection from the elements may include, but shall not be limited to, one (1) or more of the following:

(i) Barns.

(ii) Shelters.

(iii) Man-made or natural windbreaks.

(iv) Tarps.

(v) Shade cloth.

(vi) Trees.

(vii) Hedge rows.

(viii) Tall grass and weeds.

(4) Bedding must be provided as follows:

(A) Each enclosure must provide high ground, shelters, or bedding areas that prevent the animal from lying or standing in mud or water that is ankle deep for more than ten (10) consecutive days.

(B) Each enclosure used to house white-tailed deer must be provided with sufficient drainage to prevent stagnant water or deep mud throughout the enclosure such that the animals in the enclosure can turn about freely and obtain food and water without standing in stagnant water or deep mud.

(5) Enclosures must be provided as follows:

(A) Each enclosure shall be large enough to allow the animal to:

(i) turn about freely; and

(ii) make normal postural adjustments.

(B) Periodic crowding of animals of less than four (4) months of age may be necessary for the following:

(i) Wintering of animals and pasture preservation.

(ii) Breeding.

(iii) Medicating or vaccinating, or both.

(iv) Tuberculosis and brucellosis testing to maintain herd status.

(v) Handling and tranquilization.

(6) Each white-tailed deer shall be handled, housed, and transported in a sanitary and humane manner.

(m) An animal possessed under this section may be administered a pharmaceutical product in accordance with state and federal laws and approved by a state or federal agency for the purpose of prevention or treatment of any of the following:

(1) Malnutrition.

(2) Illness.

(3) Disease.

(4) Injury.

(5) Stress.

A licensed veterinarian may administer to an animal an immobilizing agent, tranquilizer, or drug for euthanasia in compliance with all state and federal laws. A license holder under this section or authorized handler may use an immobilizing agent or tranquilizer, as directed by a licensed veterinarian, to assist in the safe handling and transportation of white-tailed deer.

(n) Each white-tailed deer possessed under this section must be individually and uniquely identified in accordance with 345 IAC 2-7 prior to leaving the license holder's premises.

(o) A license holder under this section that possesses white-tailed deer must do the following:

(1) Register with the state veterinarian each location where white-tailed deer are being kept and acquire a premises identification under 345 IAC 2-7.

(2) Register with the state veterinarian and enroll in the chronic wasting disease (CWD) program under 345 IAC 2-7.

(3) Adhere to Indiana cervidae importation requirements as designated by the state veterinarian. Prior to importation, a permit from the state veterinarian must be acquired under 345 IAC 1-3 and 345 IAC 2-7.

(4) Handle all deaths of cervidae older than twelve (12) months of age as follows in accordance with 345 IAC 2-7:

(A) Report each incident to the state veterinarian.

(B) Test each disease-susceptible cervid for CWD if suitable for testing.

(C) Follow CWD sample submission protocol that is designated by the state veterinarian.

(5) Allow for an annual herd inspection by the Indiana state board of animal health and provide records under 345 IAC 2-7 for the following:

(A) Official cervid identifications.

(B) Additions and removals from herd that include dates, names, addresses, or contact information.

(C) Postmortem reports.

~~(f) No~~ **(p) A license holder under this section shall not release** wild animals ~~may be released~~ **possessed under this section** except for bobwhite quail and ring-necked pheasants. **A license holder under this section shall not release** known diseased bobwhite quail and ring-necked pheasants. ~~may not be released. A license holder must report the escape of any white-tailed deer to a conservation officer within twenty four (24) hours.~~

~~(g) A known diseased wild animal possessed under this section shall not be sold.~~

(q) A license holder under this section must not sell a wild animal possessed under this section if the animal is known to be diseased.

(r) White-tailed deer and their products may be sold in Indiana in accordance with IC 14-22-20 or out of state for any legal purpose.

~~(h)~~ **(s) A license holder under this section must comply with all applicable state, local, or other federal laws that govern the possession and sale of the animals possessed under this section.**

~~(i)~~ **(t) A license holder under this section shall do the following:**

(1) Maintain an inventory of all wild animals possessed under this section.

~~(4)~~ **(2) Record all additions and deletions to the inventory for every wild animal that is:**

(A) born or has died;

(B) sold;

(C) traded;

(D) loaned;

(E) bartered; or

(F) given to another person;

on a signed departmental form or computerized record with a signature that is either electronic or in ink. If recorded on a departmental form, the person must complete the form in ink.

~~(2)~~ **(3) Keep a copy of the complete and accurate inventory on the premises of the game breeder. and**

(4) Provide a copy must be provided of the inventory to a conservation officer upon request.

~~(3)~~ **(5) Issue a valid, dated receipt prepared in ink for all animals or their products that are sold, traded, bartered, or gifted and include the following information:**

(A) Game breeder license number.

(B) Buyer and seller name and address.

(C) Number of animals **or products** sold.

(D) Species of animal sold.

A copy of all of the receipts issued must be on the premises of the game breeder for at least ~~two (2)~~ **five (5)** years after the year of the transaction.

~~(j)~~ **(u)** A license expires on December 31 of the year the license is issued. The license holder must file an application with the division by February 15 of each year in order to renew the license. The annual report must accompany the renewal application and shall include for each species possessed under this license the number:

- (1) bought;
- (2) sold;
- (3) born;
- (4) traded;
- (5) gifted;
- (6) of deaths; and
- (7) on hand.

~~(k)~~ **(v)** A conservation officer may enter the premises of the license holder at all reasonable hours to ~~inspect those premises and any records relative to the license. The conservation officer shall immediately~~ **conduct an inspection in accordance with subsections (w) and (x).**

(w) During an inspection, the license holder or the license holder's designee shall comply with both of the following:

- (1) Meet the conservation officer at the time of inspection to provide access to all enclosures where animals possessed under a license issued under this section are housed.**
- (2) Provide access to all records relative to the license issued under this section.**

(x) While conducting an inspection, the conservation officer must comply with the following:

- (1) Upon request of the license holder or the license holder's designee and prior to entering the enclosure where animals are housed, follow appropriate sanitation practices to prevent the spread of disease if the license holder provides sanitation supplies or protective equipment.**
 - (2) Give due consideration to the safety and welfare of the animals.**
 - (3) Notify the license holder if the inspection reveals ~~that the wild animals are being kept under unsanitary or inhumane conditions.~~ a violation of this section or IC 14-22-20. The conservation officer may make a second inspection after ten (10) ~~no sooner than fifteen (15) days and~~ **after the reported violation unless critical conditions exist as determined at the reasonable discretion of the conservation officer.** The**
 - ~~(4)~~ license may be suspended or revoked under IC 4-21.5 and
 - ~~(2)~~ wild animals may be confiscated
- if the license holder fails to ~~comply with a provision~~ **correct the violation** of the license requirements.

AGENDA ITEM #13

⊕ (y) A license may be suspended, denied, or revoked under IC 4-21.5 if the license holder fails to comply with any of the following:

(1) A provision of a license issued under this section.

(2) IC 14-22-20.

(3) All applicable state, local, or other federal laws.

(Natural Resources Commission; 312 IAC 9-10-4; filed May 12, 1997, 10:00 a.m.: 20 IR 2728; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Jan 26, 2004, 10:45 a.m.: 27 IR 1789; filed Jan 8, 2007, 9:11 a.m.: 20070207-IR-312060193FRA; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA)